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In re Patent No: 5,945,370

Issued: August 31, 1999

Application No. 08/973,515

Filed: December 5, 1997

Attorney Docket No. IBM-5946370US

OFFICE OF PETITIONS

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed March 22, 2011.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **DISMISSED**.

The request under 37 CFR 1.28 cannot be accepted at this time since it appears that the petition is not signed by a person having authority to act in the above-identified patent.

Petitioner's attention is directed to 37 CFR 1.33(b), which states.

Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:

- (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
- (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
- (3) An assignee as provided for under § 3.71(b) of this chapter; or

(4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

**Further, that part of the petition that is directed to the deficiency payment is not signed by the proper party.** Accordingly, the request cannot be accepted until it is signed by all inventors, an attorney or agent registered to practice before the U.S. Patent and Trademark Office or the assignee of the entire interest under 37 CFR 3.73(b).

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITIONS  
Commissioner for Patents  
Post Office Box 1450  
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office  
Customer Service Window, Mail Stop Petitions  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Additionally, the address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

/Joan Olszewski/  
Joan Olszewski  
Petitions Examiner  
Office of Petitions

cc: A J PEACH  
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